

AMC/e-Tender/39/2009
Aurangabad Municipal Corporation



Aurangabad Water Supply Project

for
Build, Refurbish, Operate and Maintain the Water Supply System of Aurangabad City,
Maharashtra State, India

Response to Third set of Pre-Bid queries raised by Bidders

S No	Reference	Query / Suggestion	AMC Reply
IL&FS Water Limited			
1	Clause 34.3, Vol III, Draft Concession agreement	<p>Termination Payment on Concessionaire's Event of Default: As per Clause 34.3, Vol III, Draft Concession agreement, termination payments for Concessionaire Event of Default, "If the termination is on account of a Concessionaire Event of Default, the AMC shall be entitled to receive from the Concessionaire by way of termination payment an amount equal to the Debt Due less Insurance Cover. The AMC shall be able to encash the Performance Security towards any termination payments due from the Concessionaire –</p> <p>The concessionaire puts in equity and mobilizes debt funds and creates project assets for AMC. In case of termination due to Concessionaire Event of Default, the Concessionaire will forfeit equity, transfer the project assets to AMC and exit the project. Further, the Concessionaire has to pay off the lenders of the project and for this purpose, AMC has to compensate by paying the concessionaire, debt due less insurance cover. This compensation mechanism for termination payments is as per the provisions of the model concession agreement of the Government of India. In this regard, we draw attention to the model concession agreement of NHAI, which is a base document for projects in other sectors also. Further to our interactions with Bankers/Financial Institutions, this project will not be financable if this clause is not changed. The rationale of lenders is that AMC being the owner of the project assets, should guarantee the lenders the money they have lent for the project in the event of termination of Concessionaire. The Lenders also stressed that as far as the Termination payments, the Model Concession Agreement of the NHAI is the</p>	1. No change

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		<p>document all Bankers/Financial institutions follow and any deviation from that shall not be acceptable to lenders and investors.</p> <p>Hence we request that for making this project achieve financial close, AMC needs to change the clause as follows: "If the termination is on account of a Concessionaire Event of Default, the Concessionaire shall be entitled to receive from the AMC by way of termination payment an amount equal to the Debt Due less Insurance Cover".</p>	
2	Bank Guarantee	<p>As per the concession agreement the bank guarantee shall be valid for 270 days from the bid due date.</p> <p>Given the volume of work involved and traveling, Bank guarantee is usually taken 3- 4 days before the due date for inclusion in the bid. Therefore if the intimation of extension for submission of the bid had been given at least 5 days earlier, we would have taken the bank guarantee for the revised bid due date.</p> <p>If the Bank guarantee needs to be submitted from the revised bid due date, it would entail cancellation of the earlier Bank Guarantee and has huge commission costs, which is additional loss to the bidder, which does not serve the purpose. Also, there is a provision in the Bank Guarantee that AMC shall seek extension of the Validity of the Bank Guarantee at any time.</p> <p>Hence, we request you to accept the Bank Guarantee already taken by us which is valid for 270 days. At the discretion of AMC, we will extend the Bank Guarantee at the end of the current validity period of 270 days</p>	<ol style="list-style-type: none"> 1. AMC agrees with the request 2. Bidders may submit undertaking, along with Bid, on the letterhead of the Lead Consortium Member in this effect

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3	Non availability of the UIDSSMT Grant	<p>The project envisages a grant funding of Rs. 400 crores for the project, based on which the bidder will raise the remaining finance for the project.</p> <p>In the event where the grant funding is not available for the project, the entire funding pattern of the project will undergo a change and tying up of additional funds at that point of time will be difficult and cannot be envisaged at the time of bidding for the project</p> <p>Hence, AMC, as a part of its obligation, to ensure that an amount of Rs. 400 crores will be made available for the project as grant funds.</p>	<p>1. Please refer reply to query no 92 on page no 30 of 72, of the reply provided by AMC on November 3rd, 2010</p>
4	Payments for the Preparatory Period	<p>Since the preparatory period involves all survey, investigation, design and preparation of construction documents and drawings, the Concessionaire shall be spending considerable amounts for the same. Hence it is requested that the payment shall begin from the preparatory period instead of the Appointed date as stated in the Concession Agreement.</p>	<p>1. No change</p>
5	SLA – Water Loss	<p>The SLA of transmission losses to be capped at 15% is difficult to achieve given the ground conditions. It is requested that the transmission losses be capped at 25%. In the absence of such a modification, since default in achievement of SLA can be a ground for termination, it is represented that such clause can be invoked only when it is proved beyond that such default occurred solely due to the non performance of the Concessionaire</p>	<p>1. No change</p>
6	Change of scope	<p>Please confirm the project components covered under the project scope from Intake to Consumer end. It is suggested that any other additional needs, item wise as per project requirement during the concession period shall be considered as change of scope.</p>	<p>1. Please refer reply to query no 101 on page no 33 of 72, of the reply provided by AMC on November 3rd, 2010</p>

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7	Sludge management	The proposal envisages discharge of sludge into a nalla. Any change in the future involving disposal in landfills shall have to be treated as change of scope	<ol style="list-style-type: none"> 1. If consider necessary, the Concessionaire may propose such sludge discharge mechanism to the AMC during the Preparatory Period; 2. AMC may consider such request in consultation with the Independent Engineer; and 3. If considered appropriate, AMC shall approve such request and treat the same as Change in Scope
8	Payment to Ind. Engineer/Auditor	Please mention the project cost which has been considered for the Ind. Engineer / Auditor fee.	<p>For the purpose of calculating fees payable to the Independent Engineer and Independent Auditor, the Project Cost shall be:</p> <ol style="list-style-type: none"> 1. During the Construction and Rehabilitation Period – As mentioned in Annexure 1 “Revised Project Cost and Grant”, provided along with the AMC’s reply to Pre Bid Queries to all Bidders on September 22nd, 2010. The estimated Project Cost shall remain unchanged at Rs. 792.20 Crores; and 2. During the Operations and Maintenance Period – The actual operation and maintenance cost of the Project shall be the “Project Cost”
9	Power connection deposit	This includes all necessary investment cost for the connection – Please confirm.	<ol style="list-style-type: none"> 1. All cost related to the electricity including deposit towards power connection, shall be concessionaire’s responsibility
10	Booster station / ESR quantity	As per design, if any additional booster station / ESR / Sump etc., need to be constructed apart from the items mentioned in mandatory project requirements, the same will consider as change of scope.	<ol style="list-style-type: none"> 1. If required, the Concessionaire may construct additional booster stations / ESR/ Sump etc. with prior approval of AMC; 2. The same shall be considered as Change in Scope
11	Scada system	Please confirm that the scada is only for flow measurement not for control as mentioned in mandatory doc.	<ol style="list-style-type: none"> 1. The Concessionaire may design and install IT system at his own cost in order to achieve the Service Level Requirements; and 2. The choice of the system shall be with Concessionaire
12	Replacement of Electro-mech items	Please confirm that whether it is the obligation of concessionaire to replace the required electro-mech item like raw water/clear water pumps etc., at the time	<ol style="list-style-type: none"> 1. Please refer reply to query no 2 on page no 209 of 267, Section 4 – Technical Aspects, of the reply provided by AMC on September 22nd, 2010

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		of handing ie year 2031.	
13	House service Connection	Please make necessary provision in the water supply bylaw for the deposit amount towards the HSC, the same shall be transferred to the Concessionaire account in addition the water tariff.	<ol style="list-style-type: none"> 1. During the Concession Period, the Concessionaire is entitled to receive deposits towards connection / re-connection of the water connection; 2. The same shall be part of the water byelaws
14	Revised Concession agreement	It is suggested that to issue the revised draft concession agreement by taken into consideration of all prebid query replies.	<ol style="list-style-type: none"> 1. AMC had provided Draft Concession Agreement to all Bidders as a part of Bidding Documents; 2. AMC has also provided clarifications covering its stand / changes as a reply to the queries raised by Bidders on various Clauses and provisions of the Draft Concession Agreement; 3. These clarifications shall become a part of the Bid submission and be binding on all parties including AMC; and 4. Based on these clarifications, AMC shall revise the existing Concession Agreement and execute the same with Successful Bidder
United Phosphorous Limited			
15	4 (pg 12) Rep - 2 & 3	Consortium Members cannot submit separate Bid Security. Kindly note that all the consortium partners are jointly responsible for the project and hence the bid security shall necessarily be issued by all the consortium partners in proportion to their respective ratio of participation.	<ol style="list-style-type: none"> 1. No change
16	Mail dated 12th November	The bid due date should be extended from 30th November by at least 2 months	<ol style="list-style-type: none"> 1. No change
17	25 (pg 22) Rep - 1	"Instructions to bidders - The clause that concession agreement cannot be changed post bid due date is not practical. There are already lot of amendments accepted by AMC in the response to pre-bid queries. All the amendments proposed needs to be incorporated in DCA and shall be provided to all the bidders prior to submission of bids for better clarity."	<ol style="list-style-type: none"> 1. Please refer reply to query no 14 of this document
18	"5 (pg 36)	"Collection account shall be defined in the Concession	<ol style="list-style-type: none"> 1. Please refer reply to query no 19 on page no 10 of

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	Rep - 3"	Agreement. We request once again that AMC escrow 50% of octroi and property tax for first 5 years to protect the Operator and also to give comfort to financiers."	72, of the reply provided by AMC on November 3 rd , 2010
19	"6 (pg 37) Rep - 1"	"The concessionaire shall be responsible for billing and collection of water tariff". We request AMC to amend the clause as "The concessionaire shall be responsible for bulk water billing to AMC" OR ""AMC shall be responsible for collection of water tariff and the Concessionaire shall assist AMC in billing to the Consumers. OR AMC shall be responsible for collection of revenue from the consumers for the first five years and The concessionaire shall assist AMC in billing to the consumers."	1. No change
20	"9 (pg 50) Rep - 6"	Kindly amend this clause "The Concessionaire shall assist AMC to represent before MERC" as all power connection will be in the name of AMC and the concessionaire will not have any official locus standi before MERC. Besides, direct representation by the concessionaire may attract commercial power tariff being a private entity.	1. Please refer reply to query no 57 on page no 22 of 72, of the reply provided by AMC on November 3 rd , 2010
21	"14 (pg 64) Rep - 1"	AMC may please review its reply as the variation of +/- 5 % is very high in a capital intensive project like Aurangabad and will have big financial implication for the Operator and needs to be factored at actual to avoid unnecessary loading on the bids.	1. Please refer reply to query no 60 on page no 22 of 72, of the reply provided by AMC on November 3 rd , 2010
22	"27 (pg 87) Rep - 17"	AMC have given a new list of employees Annexure 24 trend in employee remuneration and the number of employees is only 115 Nos compared to the earlier number indicated in the tender of 400 nos . Also please inform how the establishment cost of Rs 4.77 Crores in the year 2009-2010 has been arrived.	1. The list provided in Annexure 31 of the reply provided by AMC on September 22 nd , 2010 is just an indicative list providing trend in change in remuneration
23	"66 (pg 23) Rep - 1"	AMC in their clarification dated 3-11-2010 have amended their earlier clarification that the lead	1. No change

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		<p>consortium member or through its associates will be allowed to dilute stake holding to 26% prior to the formation of SPV. We find that in your clarification document dated 3-11-2010 you had removed associates. We request you to kindly reinstate this as this query has already been approved and amendment issued.</p>	
24	"42 (pg 110) Query "	<p>Overall Project structure assumes all investments within 3 years. We would request that the Operator should have the flexibility of phasing out take up of the project based on demand by stake holders, milestone grants brought in by AMC and revenue collection scenario.</p>	<p>1. Please refer reply to query no 69 on page no 24 of 72, of the reply provided by AMC on November 3rd, 2010</p>
25	"45 (pg 111) Rep 1 & 2"	<p>"The concessionaire doesn't have any direct locus standi before Government authorities. It can only facilitate in taking up the matter on behalf of AMC and primary responsibility shall be of AMC only. We therefore request AMC to rephrase the replies as below: 1. It shall be AMC's responsibility to obtain all permits required for implementation of the project; 2. The concessionaire shall assist AMC in obtaining the required permissions and bear the cost pertaining to obtain such licences/ permits/ approvals."</p>	<p>1. Please refer reply to query no 70 on page no 24 of 72, of the reply provided by AMC on November 3rd, 2010</p>
26	"64 (pg 129) Rep 1 "	<p>As the concessionaire is required to bring in substantial investment and when there are a number of variables in the contract LD of 1% per week is very high. We request AMC to re-view this and may please be modified to 0.1% per week</p>	<p>1. Please refer reply to query no 73 on page no 25 of 72, of the reply provided by AMC on November 3rd, 2010</p>
27	"72 (pg 129) Rep 1 "	<p>"We request AMC to please amend the clause as below - AMC carries a risk of termination of the Agreement in case of non-fulfilment of the Condition Precedent and</p>	<p>1. Please refer reply to query no 74 on page no 25 of 72, of the reply provided by AMC on November 3rd, 2010</p>

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		shall compensate concessionaire through suitable compensation mechanism and shall be provided in DCA prior to bid submission."	
28	Annexure 11	We request NRW to be calculated from ESRs to consumer point	1. No change
29	"6 (pg 159) Rep 1"	All drafting issues of concession agreement may please be completed and given to bidders before the bid submission date.	1. Please refer reply to query no 14 of this document
JMC Projects (India) Limited			
30	Clause No. 5.2(a)(i) of DCA, prebid replies	It is the responsibility of the Concessionaire to obtain all permits required for the implementation of the project in accordance with the Environmental and Social Assessment Report and all permits required under the Applicable Law - We propose AMC should shoulder the responsibility of getting MOEF clearance for the project as AMC is the authority to carry out the task	1. MoEF clearance is not required for the Project
31	Clause No. 7 of DCA, prebid replies	Land delivery schedule: Portion A on or before the Appointed Date (Conditions Precedent), Portion B within 24 months from the date of signing of the agreement. - Portion B shall be handed over within 24 months from the date of signing of the CA or 1.5 years from the Appointed Date. Hence we get only 1.5 years for the construction of portion B of the project. AMC is requested either to assure handing over of portion B within 12 months from the date of CA or increase the construction and rehabilitation period	1. AMC shall hand over the land identified in Portion B to the Concessionaire, as and when acquired; 2. The process of handing over of land identified in Portion B shall be completed within 24 months from signing of Concession Agreement; 3. The entire Portion B will be delivered to the Concessionaire over a period of 24 months from signing of Concession Agreement and not after completion of such period
32	Clause No. 7.3 of DCA, prebid replies	AMC shall not be liable for any unforeseen adverse site conditions identified on or after the Appointed Date. All costs relevant to such unforeseen condition shall be borne by the Concessionaire - If site is handed over to the Concessionaire only on the Appointed Date, how can the concessionaire	1. Please refer reply to query no 5 on page no 3 of 72 and query no 63 on page no 23 of 72, of the reply provided by AMC on November 3 rd , 2010

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		determine the nature / extent of unforeseeable conditions prior to the Appointed Date. Will the concessionaire be permitted access to site and carrying out site investigations prior to the Appointed Date?	
33	Clause No. 17.7 of DCA, prebid replies	The details for regularising of illegal connections shall be provided in the proposed AMC bye laws. Regarding the number of illegal connections, the concessionaire is expected to conduct detailed field survey during the preparatory period - Nothing has been mentioned regarding AMC's assistance in regularising such illegal connections. Please provide the AMC byelaws	<ol style="list-style-type: none"> 1. Please refer reply to query no 46 on page no 112 of 267, Section 2 – Commercial Aspects, of the reply provided by AMC on September 22nd, 2010 2. Please refer reply to query no 4 on page no 2 of 72, of the reply provided by AMC on November 3rd, 2010
34	Clause 20 of DCA, prebid replies	<p>If change in scope or change in quantity results in decrease in project cost, the Concessionaire shall return Grant in the same proportion In case of change in scope the decision of AMC shall be binding upon both the Independent Engineer and the Concessionaire -</p> <p>On what basis will there be reduction in the availed Grant based on the reduction in the scope of works. Please provide the detailed breakup of each component of works so that its impact could be ascertained at the time of reduction in change in scope of works</p>	<ol style="list-style-type: none"> 1. The Grant will be reduced on a proportionate basis of the overall cost of the component identified in Annexure 1 “Revised Project Cost and Grant” of the reply provided by AMC on September 22nd, 2010
35	Clause 30 of DCA, prebid replies	In case of any changes in law which results in increase in costs or decrease in net after tax return of the concessionaire in any financial year, the concessionaire shall bear such incremental costs upto 5% of the total project cost. Modifications in the project agreements shall be affected only after such costs increase beyond 5% -	<ol style="list-style-type: none"> 1. No change

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		No relief provided by AMC in this clause. The cap remains at 5% of the total project cost per year. This amounts to approx Rs 39.6 Crores per year. AMC is requested to reduce the cap to 0.5% of the total project cost	
36	General	Project feasibility study in terms of end user's acceptance about the concept of the project and their amenability to pay such tariff. AMC is planning to conduct public consultations to make consumers aware about the project and the new tariff structure. AMC considers that this tariff structure shall be acceptable to the consumers - AMC is requested to conduct the public consultations to determine the acceptance of the users prior to the Appointed Date and it should be a Conditions Precedents for AMC, as the collection risk of user fees is on the Concessionaire	1. No change
37	General	AMC shall provide Substitution Agreement in the Concession Agreement to allow Lenders to step in, in case of default by concessionaire. - AMC is requested to provide the Substitution Agreement prior to the submission of bids	1. AMC shall provide draft Substitution Agreement to all Bidders prior to Bid Due Date
38	General	Draft Concession Agreement shall be provided to the successful bidder - AMC is requested to provide the Draft Concession Agreement prior to the submission of the bids	1. Please refer reply to query no 14 of this document
39	General	Timeline for proposal submission is very less - AMC is requested to extend the last date of submission of bids to 60 days after providing all necessary documents as requested by the bidders	1. No change
40	General	AMC has signed a tripartite agreement with MOUD, GOI & GOM agreeing to implement state and ULB level mandatory reforms in order to receive grants from UIDSSMT. This Grant shall be available only till	1. Please refer reply to query no 2 on page no 25 of 267, Section 2 – Commercial Aspects, of the reply provided by AMC on September 22 nd , 2010

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		<p>March 2012. Current status is not mentioned - Please provide the current status of the availability of grant. AMC has stated that this grant shall only be available upto March 2012. AMC is requested to ensure that this grant is available throughout the entire construction period, after the award of the Contract</p>	
41	General	<p>The approved list of vendors for MS Plate provided by AMC does not include the company names which has its own plate manufacturing unit as well as pipe manufacturing units in its name. whereas the list covers only approved vendors which are manufacturers of plates and not manufacturers of pipes - AMC is requested to include the companies in the list of approved vendors which has its own plate manufacturing unit as well as pipe manufacturing unit in its name</p>	<p>1. It shall be Successful Bidder's responsibility to fulfill the criteria by identifying such manufacturer</p>
Jindal Water Infrastructure Limited			
42		<p>KPI for Non Revenue Water (NRW) of 15% - from Source to customer meter. Not a standard approach and impossible to achieve.</p> <ol style="list-style-type: none"> 1. Measurement of 15% should be from the entry to the distribution system i.e. from the outlet of the clear water tank / MBR to the customer meter 2. 15% NRW in a span of 6 years may not be achievable as pipes (old & new both) are likely to burst or leak when the system is pressurized 	<p>1. No change</p>
43		<p>Disconnection Policy: Disconnecting only after 3 months of consecutive over dues / defaults in payment is a major financial risk for the Concessionaire which need to be addressed by collecting the same maximum within 30 days of the issuance of the water bill</p>	<p>1. No change</p>

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44		Construction Period of 3 years: This seems to be very tight and un-achievable. Even if achievable, it will create a lot of havoc and inconvenience to the public resulting to public outcry and possible further delays. Practically one need to open the entire city if 3 years period remains.	1. No change
45		Mandatory project requirement for distribution is not prescriptive – To assess a 20 years CAPEX requirement in achieving and maintaining KPI (24x7, 15% NRW, 100% coverage and others) shall again be un-achievable task. Mechanism to recover additional CAPEX in the distribution should be provided in the CA.	1. Please refer reply to query no 101 on page no 33 of 72, of the reply provided by AMC on November 3 rd , 2010
46		Further we also need to understand AMC's capacity to pay the Annual Support Grant plus the counter guarantee from GOM for the annual support payment. This should be part of Contract Agreement (CA)	1. Please refer reply to query no 19 on page no 10 of 72, of the reply provided by AMC on November 3 rd , 2010
47		We request AMC to extend the Bid submission date by 60 days from the date of response. At this juncture, may we request extension of Bid submission upto 10 th February 2011.	1. No change
SPML Infra Limited			
48		To be able to incorporate all the major changes and to submit the most techno-commercial responsive offer, we need at least 4 weeks time and hence we request you to kindly extend the Bid submission date by 4 weeks and confirm accordingly.	1. No change
49		Kindly note that the current Addendum dated 03.11.2010, all PE pipes in the project has been replaced with alternate MOC of DI pipes. We would like to point out that world over as well as hundreds of installations of India, PE pipes are accepted for transmission and conveyance of water. This is not only for water supply scheme but also true for	1. Please refer reply to query no 51 of this document

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		Irrigation based schemes. This change of MOC from PE to DI increases the cost of the project by upwards of 30%. You will appreciate that an economical CAPEX always gives the best produced water cost during the duration of the concession and also reduces related cost of interest burden. We therefore request to review the above and allow PE pipes to be used as MOC in place of DI pipes at this stage itself, so an economical financial model is presented in the Bid.	
50		We have received the WTP site plan and we have been trying to design and locate the various components in the plot. However we are finding difficulties in finalizing the location of the components and thus require time for carrying out the detailed survey of the plot and design a WTP which will be hydraulically complying as per the design requirements.	1. No change in Bid Due Date
51	Page 6 of 72 item at Sr. No. 9	It mentions that Bidders to submit presently the proposal with DI pipe for distribution network. However all efforts shall be made on award by persuading with State and Central Government to revise the DI pipe to HDPE pipes. Kindly note that for a project of this magnitude, wherein Bidder is also investing substantial amount into the project, choice of selection of pipe material should be kept open to the bidder. In case PE pipes are used, there is a substantial saving in the CAPEX, as well as it will reduce NRW. Similar material has been successfully used in various WSP projects in India like Tirupur, Hubli, Dharwad, Belgaum, Bhopal, Patna, to mention a few. Hence, we request AMC to amend the above as "The choice and selection of Distribution Pipe material is left open to the Bidder subject to the	<ol style="list-style-type: none"> 1. AMC agrees with the suggestion; 2. AMC shall allow use of a combination of HDPE & DI pipes instead of only DI pipes in the distribution system, provided the Concessionaire take the responsibility of getting necessary approvals from the agencies concerned and ensure release of grants from UIDSSMT and Government of Maharashtra; 3. AMC shall not bear any financial implication / burden due to this change; 4. The Concessionaire shall also ensure compliance with the Service Level Requirements as specified by AMC; and 5. In case the Government do not approve the combination of HDPE & DI pipes for distribution system, the Concessionaire will have to provide

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		condition that necessary approvals from the concerned agencies shall be the responsibility of the Bidder without affecting the performance in any amanner. Further AMC will not bear any financial implication/ burden due to above."	distribution system using only DI pipes
52	Page no 44 of 72 item no 151	In response to use of best treatment scheme clarification mentions that "The Concessionaire is expected to maintain water quality as stipulated in the RFP document." We presume that the Bidder is free to use the well proven latest technology of Modular design which can provide substantial saving in Chemicals, power, water losses, better water quality and substantial savings in land. This will also provide additional capacity of WTP in available land, if required in future. Pls confirm.	1. Please refer reply to query No. 128 on page No. 39 of 72 of the reply provided by AMC on November 3 rd , 2010.
53	Page no 14 of 72, item at Sr. No. 39	It mentions that water loss shall be 25%, 20%, 15% respectively from years 4, 5, 6 & 7, we hope you will appreciate that this is neither technically achievable nor economically desirable. Hence, we request you that realistic figure of 20% - 25% be adopted as NRW target in year 6 and confirm accordingly.	1. No change
54	Pump	Kindly note that it is the effort of the Concessionaire to optimize the performance of the system at all times. Keeping this in view the selection of the no, type, capacity and working hours should be left open to the Bidder as long as the demand of water is constantly met by the operator. This will help achieving optimum demand with minimum power cost.	1. No Change
55	Revised mechanism	We request AMC that suitable revision mechanism shall be provided into the contract so that water payment to the Concessionaire can be revised (for instance every 5 years), should the situation deviate too much from the initial forecast as described in the	1. No change

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		financial model submitted by the Concessionaire so as to restore the Concessionaire financial situation/ IRR. In case for any reason AMC is not able to adequately service the grant part of the CAPEX continuously over a period of 90 days, in one accounting year, then such situation shall be treated as Force Majeure.	